

legislation before us, S. 735, which Senators BAUCUS and GRASSLEY introduced in the Senate and worked to pass earlier this month.

I encourage all Members to support this important legislation so it can be signed into law as quickly as possible.

APRIL 15, 2009.

Hon. CHARLES RANGEL, *Chairman*,  
Hon. DAVE CAMP, *Ranking Member*,  
*Committee on Ways and Means, House of Representatives, Washington, DC.*

DEAR REPRESENTATIVES RANGEL AND CAMP: On behalf of the American Public Human Services Association (APHSA) and its affiliate the National Association of Public Child Welfare Administrators (NAPCWA), we applaud and support your efforts to fix the incentive program for states that increase their numbers of adoptions from foster care and support H.R. 1840.

As you know, the adoption incentive program, originally part of the Adoption and Safe Families Act of 1997 (P.L. 105-89), was reauthorized in the previous Congress through the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351). States perform well when provided with incentives. Between 1998 and 2006, states received approximately \$211 million in incentive bonuses for increasing the number of children adopted from foster care. During the same time period, nearly half a million children were adopted from state custody. Today, the waiting child population tends to have higher special needs and may pose challenges for caseworkers to find families willing to adopt them.

The reauthorizing language reset the base number of adoptions a state needs to finalize to earn an incentive bonus to FY 2007. For each child adopted above that baseline, a state will continue to receive \$4,000. Recognizing that older children and children with special needs may be more difficult to place in adoptive homes, Congress improved the bonus awards. The incentive amount for adopted children nine or older increased from \$4,000 to \$8,000 and adopted special needs children increased from \$2,000 to \$4,000. For the first time, Congress also added an increased rate of adoptions bonus for states. To earn this bonus, states must achieve a "foster care adoption rate" that exceeds its previous "highest ever foster child adoption rate" back to 2002 adoption numbers. Moreover, states now have 24 months to spend incentive funds on any Title IV-E and IV-B programs.

These were significant improvements to the program that would help many children languishing in foster care find permanent loving homes with adoptive families. However, due to an oversight, the recent Omnibus 2009 Appropriations Act (P.L. 111-8) changed the adoption incentive program back to pre-Fostering Connections. Prior to the reset of the baseline, many states were unable to reach continued higher goals of finalized adoptions and the numbers of children waiting to be adopted were starting to decline in many states.

On behalf of those that work so diligently to find homes for waiting children, we thank you for fixing this oversight. You are true champions for our nation's most vulnerable children.

Sincerely,

JERRY FRIEDMAN,  
*Executive Director.*

AMERICAN HUMANE,

*Alexandria, VA, April 27, 2009.*

Re HR 1840—Protecting Incentives for the Adoption of Children with Special Needs Act of 2009.

Hon. CHARLES RANGEL, *Chairman*,  
Hon. DAVE CAMP, *Ranking Member*,  
*Committee on Ways and Means, House of Representatives, Washington, DC.*

DEAR REPRESENTATIVES RANGEL AND CAMP: American Humane supports HR 1840, the Pro-

tecting Incentives for the Adoption of Children with Special Needs Act of 2009, which would ensure that States receive adoption incentive payments for fiscal year 2008 in accordance with the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351).

American Humane is a national, non-partisan membership organization that was founded in 1877 to protect the welfare of children and animals. Our support for the Protecting Incentives for the Adoption of Children with Special Needs Act reflects an over 100-year history of progressively advocating at the federal, state and local levels for laws that protect children and animals from abuse and neglect.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 reset the base number of adoptions a state needs to finalize to earn an incentive bonus to FY 2007. Recognizing that older children and children with special needs may be more difficult to place in adoptive homes, Congress improved the bonus awards. Congress also added an increased rate of adoptions bonus for states. To earn this bonus, states must achieve a "foster care adoption rate" that exceeds its previous "highest ever foster child adoption rate" back to 2002 adoption numbers.

However, due to an oversight, the recent Omnibus 2009 Appropriations Act (P.L. 111-8) changed the adoption incentive program back to pre-Fostering Connections. HR 1840 will restore the reset of the baseline to help give more children permanent homes.

Thank you for your leadership on such an important issue. We look forward to continuing to work with you. Please do not hesitate to contact Patty Chávez, Legislative Analyst, if we can be of further assistance.

Sincerely,

ALLIE PHILLIPS,  
*Director of Public Policy.*

PATTY CHÁVEZ,  
*Legislative Analyst.*

Mr. CAMP. Mr. Speaker, I am pleased to support S. 735, the "Protecting Incentives for the Adoption of Children with Special Needs Act of 2009."

Throughout my time in Congress, I have built on the lessons I learned working as an attorney helping families with their adoption proceedings. As a Member of the Committee on Ways and Means, I have been privileged to continue working on these issues, helping parents adopt children and form loving families. I am still impressed with the number of individuals, organizations, and legislators interested in the well-being and development of children and in encouraging more families to take in and adopt children in foster care.

Congress has made important strides improving the adoption process, by enacting my legislation, the Adoption and Safe Families Act, in 1997, followed by the Adoption Promotion Act in 2003. Additionally, just last fall I was pleased to support the Fostering Connections to Success and Increasing Adoptions Act of 2008, which was enacted with bipartisan and bicameral support. The legislation further encouraged adoptions from foster care by revising the Adoption Incentives program and extending its authorization through fiscal year 2013. Among other improvements, this law gave States more generous Federal incentive funds if they succeed in helping more families adopt children now languishing for years in foster care—especially older and disabled children.

Unfortunately, the fiscal year 2009 Omnibus Appropriations bill (P.L. 111-8), which passed through the House with limited consideration, included a flawed provision that effectively overrides the improvements to the Adoption Incentive program made in last year's Fostering Connections law.

In short, the Omnibus bill incorrectly stipulated that Adoption Incentive funds should be provided under the "old", less generous rules Congress wanted to replace, instead of the "new", more generous rules included in the Fostering Connections law. That means States would have less incentive to pursue the adoption of older and disabled children in foster care, among others, because they would receive less Federal funds if they are successful in achieving those goals.

We can't know for sure which States would lose if this fix is not made, because we don't yet know which States will successfully improve their performance in increasing adoptions in the wake of the Fostering Connections law. But we do know that America's most vulnerable young people stand to lose if, as a result of this error, they spend more time in foster care instead of with loving adoptive families. We can't and shouldn't let that happen.

That is why I and my colleague CHARLIE RANGEL, the Chairman of the House Committee on Ways and Means, introduced legislation to correct this error. Our bill (H.R. 1840) is identical to the legislation (S. 735) the Senate passed on April 2 and that is being considered by the House today.

I encourage all Members to support this important legislation so it can be signed into law as quickly as possible.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CUELLAR). The question is on the motion offered by the gentleman from Washington (Mr. McDERMOTT) that the House suspend the rules and pass the Senate bill, S. 735.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. GUTIERREZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 627 and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

#### CREDIT CARDHOLDERS' BILL OF RIGHTS ACT OF 2009

The SPEAKER pro tempore (Mr. AL GREEN of Texas). Pursuant to the order of the House of Tuesday, April 28, 2009, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 627.

□ 1709

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes, with Mr. CUELLAR in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the order of the House of Tuesday, April 28, 2009, the bill is considered read the first time.

General debate shall not exceed 1 hour, equally divided and controlled by the Chair and ranking member of the Committee on Financial Services.

The gentleman from Illinois (Mr. GUTIERREZ) and the gentleman from Alabama (Mr. BACHUS) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. GUTIERREZ. Mr. Chairman, I would like to yield at this moment 2½ minutes to the chief architect, promoter, the person who really brought this bill to fruition here on the House floor not once but for the second time, the gentlewoman from New York, Congresswoman MALONEY.

Mrs. MALONEY. Mr. Chairman, I rise in strong support of the Credit Cardholders' Bill of Rights, and I thank the Democratic leadership, Chairman FRANK, Chairman GUTIERREZ, and my Democratic colleagues for their support of this important legislation.

The House bill would provide consumers protection from credit card fraud and deception. Today's action builds on the vote that we had last year when the bill passed by 312-112. We held numerous hearings and meetings, and came forward with a set of gold principles that many issuers have voluntarily followed. Today's bill is another step forward towards making these protections permanent, and importantly, we expand upon them in a number of key areas to provide consumers with additional protections.

The bill targets specific abusive practices—retroactive rate increases that can trap cardholders in a downward spiral of unexpected debt, double-cycle billing that charges interest on balances that have already been paid, payment allocation rules that deny cardholders the right to pay down their high interest rate balances first, due date gimmicks that trick people into paying their bills late and then hitting them with retroactive rate increases, penalty interest rates, late fees, multiple over-limit fees for one over-limit transaction, and subprime cards of which the annual fees alone eat up most of the credit line before a single charge is ever made. It gives consumers more tools to better manage their own credit, such as setting their own credit limit.

This is not a bill that takes away consumer choice or that infringes on anyone's rights. It simply says it is not right to be deceptive, to be unfair or to engage in anticompetitive practices.

The bill has been endorsed by consumer groups, labor unions and civil rights organizations that have made the passage of this bill a top priority because these unfair practices affect so many people every single day of the year. There have been more than 54 editorials and op-eds endorsing the

need for credit card reform across our Nation. Just last week, President Obama called to the White House the top executives from the credit card industry to tell them that the days of any time/any reason increases must come to an end.

This is an important bill that affects many people. It is hard for me to come to the floor of Congress or to walk down the street without hearing some story of some type of credit card abuse. This would end the tricks and traps, and it builds also on the Federal rule that came out after our bill passed that resembles strongly our bill. Sixty-six thousand comments were written in support of the Federal rule which we are supporting today, too.

I urge a "yes" vote on this important legislation. It will help millions of people in America. We have done a great deal to help our banks shore up their capital requirements and allow them to provide more loans. This will allow consumers to protect their interest rates, to keep them lower so that they have more money, their own money, to invest in our economy. It's fair to all concerned. I urge a "yes" vote.

Mr. BACHUS. Mr. Chairman, let me start out by saying that I know the Members on the other side and I think there is one thing that we all share—most of the Members if not all of the Members—and that is that we want to protect consumers from unfair and deceptive credit card practices and ensure that they receive useful, complete, fair disclosures as they enter these agreements and, once they enter these agreements, that the terms and conditions are met and that they're not abused.

□ 1715

Like many of my colleagues, I have received calls from constituents about credit card practices that certainly don't seem to be fair. In fact, many times they are not fair. And I don't defend them. That's why I don't question the motivation or the sincerity of those who want to address this practice with this bill.

Having said that, I don't believe that this bill is the right solution. But there is an alternative, and I want to discuss an alternative that I think has been taken. Because in going in and over-restricting the offering of credit and overly restricting credit card companies' ability to price and by over-restricting terms and conditions, you do affect the availability of credit. In fact, the Small Business Administration has testified—not about this bill, so I don't want to mislead anybody; it is not about this bill—that they have said that with small businesses, availability of credit is their greatest concern, restrictions on credit are their second greatest, and only third is the terms and conditions. And that there has to be a balance between the government—they didn't say this; this is what I am saying—if we over-restrict what companies or people offering credit, what

they can do or offer, you do—and I think we all agree—you do, whether you unconsciously do it or intentionally do it, you do restrict the offering of credit.

This bill will do that. I mean, there will be people who can have a credit card today at a higher interest rate, or if they don't pay on a timely manner at a rate that escalates, that if this bill passes, will not get credit at all. Now some people might say, well, that's good.

But today, you have got to have a credit card. And we have to take, I believe, in offering rates and in changing rates from time to time, the payment history of the person, of the credit card holder, we've got to take into consideration whether they have met the obligations.

Now, the sponsor of this bill—and I have agreed for some time that there are some practices that we ought to address. Double-cycle billing. You mentioned this bill addresses that. And it ought to be addressed. Mr. GUTIERREZ and I talked about them offering a rate and then coming back in 6 months and suddenly changing that rate without any notice, number one, and then changing it on the existing balance as far as going forward. We both think that they shouldn't do that unless there are unusual or extenuating circumstances.

I think we also all agree that—and I have had complaints from other Members knowing that I am the ranking member of Financial Services—that people get their credit card bill and they are out of town and all of a sudden they couldn't get it back and they didn't have time to pay it. The gentlewoman from New York says we're going to extend that to 21 days. That's a good thing. But all three of those things, and several other things that we agree on, the Federal Reserve has acted.

Now there is a disagreement among us. Mrs. MALONEY has said, and others have said, that they ought to be able to do this in 30 days, or 60 days. But the Fed has issued 1,200 pages of regulations—1,200 pages—and we simply don't think that 30 days or 60 days, the credit card companies, the banks tell us—and these are not just the big banks; these are community banks, these are credit unions—they have all said, "Look, we agree there were abuses," and the Fed and members of this committee on both sides have pushed them into making changes. But I honestly don't think they can do it in 30 days or 60 days. That's a fair argument.

What I fear is, as I said, credit cards play a crucial role in the lives of everyday Americans and the overall economy. I mean, the availability of credit cards, credit card offers, they are essential. And any regulation or any legislation affecting credit card practices is going to have a profound effect on every American and every American family. Those effects can be good in cases. I think when you give people 21

days, I think that's a good thing. I think when you say let's not change someone's interest rate on a balance, you ought to give them like you do, and we agreed and the Fed agreed, to give them 5 years, amortize it and give 5 years.

I think it was a good thing to prohibit double-cycle billing. In fact, there are 12 or 14 things that the regulators have now told the banks they've got to do.

But I believe there is always if you say one size fits all, yes, there will be people, if this bill passes, that will receive a lower interest rate or their interest rates won't go as high. But there are other people, I think a far greater universe, where the interest rates will go up on people that pay on time, people that have better credit, and that this is sort of a leveling, and I think you're going to see that interest rates are going to go up from 10 to 12 percent.

Let me just simply stop there. I will give the lady a chance to respond. But I do want to say one thing and then I will quit.

We're in the midst of a severe economic downturn. Unemployment is up. Hardworking Americans are facing unparalleled difficulties. Now, if a credit card company doesn't treat them right, they just add to those difficulties. But if we over-restrict these offers of credit, put too much conditions on it, we've been told that the credit limits are going to come down. Some people are going to be told, "I'm sorry, we're pulling your lines of credit." That's already happened. And particularly, investors and people that invest and put capital behind credit card offerings are not going to be there. I do have all of those concerns.

For that reason, I sincerely believe that H.R. 627 is going to do some good, a lot of it the Fed is doing anyway, but it's going to do some harm. And you weigh all of that out, and I am afraid that the consumers are not going to benefit. Some will, but I think most won't.

At this time, I will reserve the balance of my time.

Mr. GUTIERREZ. Mr. Chairman, I yield 1½ minutes to Mr. PASCRELL from New Jersey.

Mr. PASCRELL. Mr. Chairman, that was, to my good friend from Alabama, the best apologist presentation that I have heard in a long time.

The very same people stood on the floor of this House and condemned folks trying to get a part of the American dream in buying a house and then finding out they couldn't afford it, condemned those people. Not the folks who loaned them the money, not the many unscrupulous people. I have heard it before and will hear it again, I am sure.

There has to be a balance, and I would agree. The question is we've gone out of balance, and no one can deny looking at the data of the past 20 years that we have reduced our standards, there have been financial prod-

ucts that nobody has overseen, and I place the blame on both political parties. Neither party is privy to virtue on this. We'll stand for the consumer this time. Hopefully we'll get it past this House and we will get it past the Senate. That's necessary.

We have before us here legislation which would give consumers protection against credit card abuses. That's what we are targeting here. And this is at a time when Americans are sick and tired of being the victims of a crafty and fatally opportunistic financial sector. You may defend that sector. You have all of the right to do it. Thank God we're in America.

Americans are discovering that even if they pay their bills, their interest rates still get jacked through the roof. Even if you pay your bills. The credit card industry and some Members have been quick to condemn this legislation. But today, I ask those who have spoken against the legislation, what possible detriment is there in increasing transparency in the imposition of fees? How can we possibly be against empowering Americans for taking control of their credit card finances?

Mr. BACHUS. Mr. Speaker, I yield to the gentleman from Texas (Mr. HENSARLING) such time as he may consume.

Mr. HENSARLING. I thank the ranking member for yielding.

Before entering into the debate, I certainly want to acknowledge, as I have before throughout this debate, number one, the work of the subcommittee chairman with whom I have served, proud to serve as the ranking member, it has been a very open process, a very good debate. And I certainly want to congratulate the gentlelady from New York who I know has been quite passionate about this issue. And although we certainly disagree with the implications of her legislation, what I believe or I hope to believe are unintended consequences, I certainly share, at least, a number of the goals that she has.

However, I do have great concerns about this legislation.

First, if this was a debate on whether or not there are credit card companies in America that use misleading and deceptive practices, I think we could pass that legislation with unanimous consent.

Now, Mr. Chairman, if this was legislation about whether or not the average consumer can understand their credit card agreement—the average one running 6,691 words, it would take the average American almost an hour to read, much less comprehend—my guess is we could pass that with unanimous consent as well since indeed most Americans cannot understand the provisions in their credit card agreements.

But unfortunately, the legislation before us goes way beyond simply ending deceptive practices. It goes way beyond simply trying to effectuate effective disclosure for the consumer. And although the bill is entitled the Credit

Card Bill of Rights, I have great fears that ultimately this will prove to be the Credit Card Bill of Wrongs.

I believe that ultimately three things will happen if this legislation is passed: Number one, because of its prescriptive way in dealing with risk-based pricing, by essentially imposing a form of price controls on late fees, either, number one, the borrowers who do it right—now, Mr. Chairman, that's half of America; half of America either pays their bill off in full at the end of the month or does it almost every month. And then there is about a quarter who miss some. And then there is about a quarter who are always universally late.

But what is going to happen, Mr. Chairman, is the people who are doing it right, who are working hard, trying to pay their bills, are going to be forced to bail out those who don't. This bill will take us back to a previous era, a bygone era where everybody paid higher interest rates, where a third fewer people had access to credit, and we had all of these dreaded annual card fees.

□ 1730

Now, that was a previous era before we had this thing called risk-based pricing, Mr. Chairman, and what is that? It says, you know what, if you have a checkered credit past or maybe you have a lower income, maybe you're having trouble meeting your bills, well, risk-based pricing says you can still get access to credit if you're willing to pay more for the risk of the creditor. The option, of course, is not to have any credit at all, in which case if you lose your credit card, then you're looking at some other option. And in that respect there are provisions of this bill that maybe ought to be called the "Pawn Shop Owners and Payday Advance Lenders Relief Act," because, Mr. Chairman, if you start to take away credit opportunities of those who have checkered credit pasts, those who are low income, they may be forced into options they don't like.

Now, again, I want to make it very clear I think the payday lenders, the pawn shop operators, they serve a very vital function in our economy. Many people use them. That's not my point. My point is the consumer ought to be able to choose. So if you start taking that ability away to risk-based price, you're taking away credit, number one.

Number two, you're going to be forced to this bygone era where the people who did it right have to bail out the people who did it wrong. I mean, does that sound like a fairly consistent theme out of this particular Congress: bailout, bailout, bailout? And that's what this is, Mr. Chairman. Unfortunately, it will force the good credit cardholders to bail out those who aren't.

And you know what, Mr. Chairman. We have now seen out of this Democratic Congress a \$700 billion bailout bill costing the average American family over \$6,034. We have seen a \$1.13

trillion, with a “t,” government stimulus plan, costing the average American household \$9,810. We’ve now seen out of this Democratic Congress, Mr. Chairman, an omnibus spending bill \$410 billion, costing the average American \$3,534. And now just today, just today, a \$3.6 trillion budget, which is going to triple the national debt in 10 years.

I mean, Mr. Chairman, isn’t it enough that this Congress has taken all the cash out of our wallets? Is it going to take the credit cards out of our wallets as well? I hope not. I don’t believe that’s the intent of the legislation, but I fear that will be the effect.

Now, again, there are many problems in this credit card market. There are credit card companies, one in particular, that my wife and I absolutely refuse to do business with because we don’t like their practices. But throughout this debate, and I challenge Members on the other side of the aisle to show to me, where is it that we don’t have a competitive market? Where is it that the consumer doesn’t have the choice? Now, up until the recent economic turmoil that we’ve had, I believe there were over 14,000 different credit card issuers in this Nation with a dizzying array of options for consumers to choose from. It’s the competitive market that is the consumer’s best friend.

Now, if people don’t understand their disclosures, and I believe, again, many of them don’t, what we ought to do is not take away the economic opportunities, not take away consumer choice, but ensure that there is effective disclosure written in English, not voluminous disclosure written in legalese. Part of this is the fault of Congress and the regulators. When you disclose everything, you end up disclosing nothing. Part of it is an answer to an explosion of liability exposure to where some of these credit card companies feel, well, if we don’t disclose this, we may get sued.

And then last but not least but, again, there are misleading and deceptive practices of credit card companies. That should be stopped, and particularly under the Truth in Lending Act, under the Deceptive Trade Practices Act. Sometimes, Mr. Chairman, the answer is to enforce the laws that we have on the books.

I don’t see the gentlewoman from New York on the floor at the moment, but I want to commend her for that portion of the legislation that deals with disclosure. Now it roughly parallels that of the Fed regs that the ranking member spoke of, and I think a lot of good can be done here in informing consumers about what their rights and responsibilities are.

But, again, ultimately I feel that if we enact this legislation, bad things are going to happen. And it’s not just a theory that I have. It’s not just me personally. I mean, let’s listen to our own Congressional Research Service. They said: “Credit card issuers could respond in a variety of ways,” speaking of the

legislation. They may “increase loan rates across the board on all borrowers, making it more expensive for both good and delinquent borrowers to use revolving credit. Issuers may also increase minimum monthly payments, reduce credit limits, or reduce the number of credit cards issued to people with impaired credit.” So it’s not my opinion. That’s the opinion of the Congressional Research Service.

Now, I’m sure that every Member here has a number of financial institutions throughout their congressional districts. I’m proud to represent a number of community banks in the Fifth District of Texas. It’s an informal poll, but I went to three of them—First State Bank in Athens, Texas; East Texas National Bank in Palestine; First State Bank in Mesquite, Texas—and I asked them what’s going to happen if this legislation is passed? And what they told me was, you know, at that point the cost of these cards to community banks just become so much to justify continuing the program, the card portfolio ends up getting sold to the big banks and the consumers lose their options in smaller markets. That’s what we are hearing from community bankers.

What do we hear from academics? Well, we heard testimony from Professor of Law Todd Zywicki at George Mason University: “Increased use of credit cards has been a substitution for other types of consumer credit. If these individuals are unable to get access to credit cards, experience and empirical evidence indicates that they will turn elsewhere for credit such as pawn shops, payday lenders, rent-to-own, or even loan sharks.”

And, indeed, Mr. Chairman, we see this happening in the marketplace now. Pick up the newspaper. Recently in the *IndyStar*, I read: “More Middle Class Families Are Seeking Payday Loans As Financial Turmoil Mounts.” The *Boston Globe*: “Tight Credit Drives Consumers Towards Pawn Shops.” As you begin to take away people’s credit cards, you send them elsewhere.

And perhaps the most relevant piece of data, Mr. Chairman, is what happened in the U.K., in Great Britain, when they passed a similar law. They decided credit card default fees were too high, and they ordered the credit card issuers to cut them or face legal action. What happened? You can look at the record. Two of the three largest issuers promptly imposed annual fees on their cardholders. Nineteen of the largest raised interest rates. And by one independent estimate, 60 percent of new applicants were rejected. Those are what I assume to be the unintended consequences of this legislation.

So, Mr. Chairman, as people shoot at credit card companies, and there’s a number of them that need to be shot at, I hope they don’t end up wounding hardworking, struggling American families who rely on these credit cards to finance their small businesses, to

help them with their health care needs, to buy groceries. And I know people can go and high-five each other and say, look, we beat up on the credit card companies today. But if you take away risk-based pricing, you’re going to take credit opportunities away from the people who need it most. And if you impose this bill, what you’re going to say is to half of America who pays their bill on time, well, folks, you’re going to have to bail out somebody again. You know, we’re reaching for your wallet. We’re going to force you to bail out the people who don’t do it right.

That’s not right, Mr. Chairman. It is not fair. And because of that, this legislation in its current form needs to be defeated. We need disclosure. People need an adequate amount of time to pay off their balances if their interest rates or terms change, but we cannot restrict in a competitive marketplace the options and opportunities of struggling Americans at a time of a great credit crunch when they desperately, desperately need access to those credit cards today.

So I urge defeat of this legislation.

Mr. GUTIERREZ. I thank Mr. HENSARLING for his very kind words. I look forward to continue working with him.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas, a member of the subcommittee and of the full committee, a really dynamic member of Financial Services.

Mr. AL GREEN of Texas. I thank the chairman of the full committee, Mr. FRANK. I thank Mr. GUTIERREZ, our chairperson of the Financial Institutions Subcommittee. I would like to thank the ranking member, whom I have a great relationship with and I look forward to working with. And I would like to move quickly now to why I am supporting this legislation.

Mr. Chairman, the right time to do right is right now. We do not want to allow ourselves to become victims of something known as the paralysis of analysis. We have analyzed this bill for years. It is now time for us to act.

It is right for us to do something about retroactive rate increases. This bill does something about it. If you have a balance and the rate goes up, should the interest rate increase apply to your previous balance or should it apply to balances going forward? That’s what this bill does. It does not allow it to apply to charges that you’ve already made.

Should a person who is not emancipated, who is younger than 18 years of age receive a credit card? I don’t think so. This bill prohibits this.

Should persons have adequate notice to deal with rate increases? Forty-five days is really not unreasonable if you get a rate increase on your credit card. This bill accords 45 days’ notice of rate increases.

Should a person have the right to have the payment go to the lowest interest rate so as to pay off that rate

first as opposed to the highest interest rate? Well, I think that we ought to let people pay off the highest interest rate so that they can make sure that they are not going to have higher bills in the future.

The right time to do right is right now. Let's not become a victim of what's known as the paralysis of analysis. Let's move forward. Let's pass this legislation.

Mr. GUTIERREZ. Mr. Chairman, I now yield 2 minutes to the gentleman from Minnesota (Mr. ELLISON), who came here to fight for our people here.

Mr. ELLISON. Thank you, Mr. Chairman, for yielding.

All appropriate thanks being given except for one person who deserves special thanks. I believe Congresswoman MALONEY must feel like a mother giving birth. This bill is phenomenal. I am so incredibly proud to be a friend of hers.

Let me say that I knew that we had a problem in America when my 19-year-old son, who didn't have a job and was a college student, kept getting solicitations for credit cards; but I was quite convinced we had a real problem when my 13-year-old son, who did nothing more than apply for a Sports Illustrated subscription, started getting credit card solicitations.

I hope some people don't have access to credit, namely my 13-year-old son. I hope some people don't get credit cards, people who cannot handle credit. But credit card companies have given credit card solicitations out all over the country to anyone, and so it's no doubt that some people have gotten credit cards who perhaps should not have them.

This legislation is about keeping good credit card companies good. Not all credit card companies engage in some of these policies that even the Federal Reserve Bank found were deceptive and abusive. Some credit card companies didn't engage in universal default; some did.

This bill sets a basis for an entire industry so that good credit card companies never have to be tempted to engage in some of these nefarious practices just to stay competitive with companies that do.

I am happy that at least nine Republicans voted for this bill in committee. They understand the wedding of good policy and good politics.

□ 1745

My friends, this bill is popular because it makes sense for the American people. And so, from a partisan standpoint, I hope I do see a bunch of red up there from the other side of the aisle.

The fact is that in 2008, credit card issuers imposed \$19 billion in penalties and fees on families with credit cards. This year the credit card companies will break all previous records.

I am proud to be associated with this legislation.

Mr. GUTIERREZ. I am delighted to always see members of our leadership show up here.

Congressman VAN HOLLEN of Maryland is recognized for 2 minutes.

Mr. VAN HOLLEN. Mr. Chairman, this is an opportunity for all of us on a bipartisan basis to stand up for consumers around this country.

I want to recognize the terrific leadership of Congresswoman CAROLYN MALONEY, BARNEY FRANK, LUIS GUTIERREZ and the members of the Finance Committee who put this together.

We all know we are facing uncertain times, and many Americans around this country are trying to figure out how they can save, how they can plan financially to get through this difficult period. And yet I have received lots of calls from constituents in my district who have talked about how the abusive and often unpredictable practices of some of the credit card companies have made it impossible for them to plan.

A lot of them have played by the rules for years. They have used credit responsibly. Yet now they are being tripped up and surprised by unwarranted increases in their credit card fees and in their interest rates.

We all know about the Pew Charitable Trusts report that 93 percent of credit cards allow the issuer to raise any interest rate at any time by simply changing the terms of the account without adequate notice.

Other cards allowed the issuer to impose automatic penalty interest rate increases on all balances, even in cases when only a portion of the account was less than 30 days past due. In fact, 80 percent of the cards showed that happened.

A constituent who called my office recently talked about how his card interest rate had been unfairly doubled and that it, quote, materially and adversely affected his family's ability to pay down their debt and borrow in the future.

When they contacted the credit card issuer, all they got was no details as to why they had been downgraded in their credit, just it was, quote, made an adjustment based on economic conditions.

Another constituent, somebody else who also had been on time and paid reliably, saw her interest rate jump from 9.5 percent to 16.99 percent. When she contacted the company, she was told "the current financial conditions." That's what she was told, not why she saw her interest rates go up.

We have heard reports of credit card companies moving around the due dates or holding a payment in order to trigger a late charge. Some credit card companies mailed out bill statements close to the due date to trip up their consumers.

Those are the kinds of practices we have got to put an end to. This is our opportunity to say to the consumers, we're on their side.

Mr. GUTIERREZ. I recognize the gentleman from New York, who I enjoy working with on Judiciary and also on Financial Services, Mr. MAFFEI, for 2 minutes.

Mr. MAFFEI. I want to thank Chairman GUTIERREZ for yielding and for all his leadership. I want to thank the chairman of the full committee, BARNEY FRANK, as well. And especially I want to thank the former chairwoman of the subcommittee, CAROLYN MALONEY, for her persistence on behalf of American families.

Mr. Chairman, I rise to ask for support of this very important bill, because I feel strongly that we must stop the deceptive and unfair practices that have taken advantage of honest consumers.

For too long, credit card issuers have buried important details in the fine print or never showed consumers the 30-plus pages contract they are signing onto. Credit card issuers then hit consumers with rate increases and fees, always with the excuse, well, it's in the contract.

I am okay with needing a lawyer to close on a house, but regular people shouldn't need a lawyer just to get a credit card. We must make sure credit cards have fair rules.

I hear time and again from people in my district who have seen their interest rates substantially increased on their credit cards or the limits decreased for arbitrary reasons or no reason at all. This is an issue that crosses into every part of my district.

Without fail, someone shares some story each time I am at home. One, for instance, is Reverend Aaron Overton of the Temple Baptist Church Baldwinsville, New York. He saw his credit card company raise the rate on his church's existing balance to more than 36 percent, even though he had evidence that his bill was always paid on time. And, believe me, this Baptist church showed no risk of default or of running away.

The Credit Cardholders' Bill of Rights takes important steps to level the playing field. It provides that customers receive 45 days' notice of an interest rate increase. It institutes commonsense changes, such as requiring that every statement display a clear due date.

Finally, and most important to my constituents, the Credit Cardholders' Bill of Rights ensures that companies cannot raise rates retroactively on existing balances. Raising rates on pre-existing balances means that issuers are raising rates on funds already disbursed to customers, and that's simply unfair.

The credit card issuers have taken advantage of American families, small businesses and even churches that are too responsible to run away or default but too financially strapped to pay off their balance. This is unfair at any time. But during a time of recession, it is unconscionable.

This bill of rights for credit cardholders will restore fairness to the consumers.

Mr. GUTIERREZ. If I could inquire of the Chair how much time is remaining on each side?

The CHAIR. The gentleman from Illinois has 18 minutes remaining. The gentleman from Alabama has 8 minutes remaining.

Mr. GUTIERREZ. I would like to yield 1½ minutes to someone who has a great history of protecting, came here to continue to expand protection of consumers, the gentleman from Vermont (Mr. WELCH).

Mr. WELCH. I thank you, Mr. Manager of the bill. I thank CAROLYN MALONEY, the Representative who has provided leadership on this from the Financial Services Committee.

The legislation that is before us is overdue. It does provide basic transparency and protection to consumers who had no rights to anything.

But there are two things that I hope will be part of the future debate about protecting consumers. Not in this bill. This bill on its own deserves to be passed.

But those two issues are, one, is it time to consider a cap on interest rates? And, number two, is it time to provide protection to the merchants, the small businesses?

I believe it is time to have an interest rate cap. We have historically had it until the Supreme Court took those away, but we have had caps on interest as far back as the Babylonian times. Commerce has succeeded when there have been reasonable interest rate caps.

It's one thing if somebody gets notice that their interest rate is going to go from 8 percent to 38 percent. But it probably shouldn't go up to 38 percent and we ought to have a lid.

Second, there's an argument that the banks are making that this will compress credit, making it more difficult to get. The reality is that credit is shrinking already because of practices that have been excessive.

Over 8 billion solicitations go out, not just to consumers, but sometimes to their pets. There is an alarming parallel between what is being done here in credit cards, or what has been done, and what happened in the subprime crisis.

Credit card issuers securitize and pass off their risk to the secondary market, pass on the losses by increasing fees on responsible users of credit, and they fail to exercise reasonable underwriting standards. We have got to change the business model so there is responsibility on both sides.

Mr. GUTIERREZ. I yield an additional 2 minutes to the chief architect and sponsor of this bill, the gentlelady from New York (Mrs. MALONEY).

Mrs. MALONEY. I thank the chairman for yielding and for his leadership on this important bill in so many areas.

I would like this time to respond to my good friend and colleague on the other side of the aisle, Mr. BACHUS, where he pointed out that the bill may cause interest rates to rise and credit lines to be cut.

But what we are hearing now, interest rates are rising and credit lines are

being cut, and we don't have the bill in place. In fact, what we are hearing from many people on this floor, and what we hear when we go home to our districts, that oftentimes when you pay on time and do not go over your limit, interest rates can go up, and it's totally legal.

I have talked to constituents and others who have told me that their rates have doubled. They have called the issuers, and they don't even have to give them a reason. Because, now, in the very fine print, they can raise the rates any time, any reason, retroactively on existing balances.

One astonishing hearing was when the head of Freddie Mac, Syron, testified before our Financial Services Committee, and he said that he and his wife read the credit card contract fine print for hours and could not figure out what it said. The Federal Reserve also came forward and said that Reg Z or disclosure was not enough. They said the practices were unfair and deceptive and misleading, that the average citizen, like the chairman of Freddie Mac, could not even understand what was in the fine print.

This bill really is very balanced and fair and allows consumers to have notice when interest rates are going up. They have 45 days' notice, so they can decide whether they want to opt into this higher rate or go to another card that has a lower rate and pay off their balance. This will put competition into the system, and, I believe, lower rates.

I wanted to respond to the gentleman on the other side of the aisle. In good times and in bad times, the issuers have been opposed to this legislation, and we need it now. We are in bad times. Consumers need protection.

Mr. GUTIERREZ. Mr. Chairman, in continuing our agreement, I am going to yield myself 5 minutes. That will put us at about the same amount of time on each side of the aisle.

Mr. Chairman, first of all, let me rise in strong support of H.R. 627, the Credit Cardholders' Bill of Rights Act of 2009.

Let me once again thank the gentlelady from New York, Congresswoman MALONEY, for her tireless effort and work on defending consumers. I can't think of a better legislative product that I could have as chairman of the Subcommittee on Financial Institutions to bring before this House of Representatives than the bill that the gentlelady has worked so tirelessly on over many, many years. I am delighted that I got this opportunity and it's, indeed, a great privilege.

We have more than 640 million credit cards in circulation that account for an estimated \$1.5 trillion of consumer spending. Clearly the U.S. economy has gone plastic.

I mean, you have been around. Nobody takes out a checking account anymore. Nobody sticks their hand in their pocket and brings out cash. We have become a credit card economy and society.

But America's love affair with credit cards comes with a hefty price. The av-

erage credit card debt among American households has more than doubled during the last 10 years. Today the average family owes roughly \$8,000, Mr. Chairman, on credit cards. The debt has helped generate record profits for the credit card industry.

Unfortunately, a growing share of the industry's revenues don't come because you took \$200 at 10 percent, but come because the industry's revenues come from deceptive practices such as universal default terms spelled out in very fine print.

As a matter of fact, we now know that even the Federal Reserve Board when they evaluated this situation said, listen. I want the American people to understand that it isn't that they aren't smart, it isn't they can't read, it isn't that somehow they didn't get schooled well. Look, these things are designed to be deceptive. They are designed to trick you.

And so you get tricked, you get fooled. That's what we are here for, to make sure it no longer happens. And that has been independently confirmed. That's the way they do it. That's the magic of what they do. And kind of the recipe here is to make sure there is a level playing field, and that's what this thing does.

The terms and conditions can be changed. Not only is there fine print, but then they can change it with 15 days' notice at any time for any reason.

According to a recent Pew study, 100 percent of 400 types of credit cards that they reviewed contained in its terms at least one practice that has been found, not by the Democrats, not by the Republicans, not by the Obama administration, but by the Federal Reserve to be unfair and deceptive. And 93 percent of the cards studied allowed for any time, any reason, repricing, allowing an issuer to hike the APR on a consumer's credit card even if they never missed a payment.

So I wanted everybody to understand we are not talking about people who are late with their credit card bills, not paying late. They are not somehow scofflaws. These are people who every month paid on time, get it in to the credit card company, and they are still increasing their interest rate.

In 2008, the House passed the Credit Cardholders' Bill of Rights by a vote of 312-112, but it was unfortunately not signed into law. This year, once again, under the leadership of Representative CAROLYN MALONEY, we have taken up H.R. 627, which appropriately carries the name of its predecessor, and it has moved swiftly to the floor for final passage.

□ 1800

We must pass this legislation once again. Americans are suffering from rising unemployment rates, dramatically falling household wealth and declining real wages. I want to say that again. Americans are suffering from rising unemployment rates, dramatically falling household wealth and declining real wages, all of which makes



it harder for them to pay off their credit card debt. It makes it harder, more difficult.

If there was ever a time for the Congress of the United States to step up and defend consumers, it is now. We are in an economic crisis and meltdown. Unemployment, millions of people are unemployed, and probably hundreds of thousands more will continue to be unemployed.

Look, all we are saying is we did a lot for the banks. Everybody knows that. When they were in tough shape, we did a lot for them. Can't we do a little bit for the consumer, for the person who has to tirelessly work at these jobs, and their wages are going down and their health care benefits are going down and everything around them seems to be just causing more and more anguish and suffering? That is what I hear from the American people.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GUTIERREZ. I yield myself an additional minute, Mr. Chairman.

So we have to pass this.

Let me just end with this. Look, I understand that we don't want to restrict credit. We want people to have it. But, golly, if I go take a loan at 10 percent, and then all of a sudden they charge me 20 percent on the same money I took at 10 percent, that is wrong. That is just wrong. Nobody should be able to change the terms.

This is America, right? You shake hands, you make an agreement, you say this is how much you are going to pay on that \$100. But we know the credit card companies are not doing that. As a matter of fact, what they do is they say, you know, LUIS, that \$1,000 you took at 10 percent? I am not only going to charge you 20 percent on it, but, you know what? I am going to go back two or three months retroactively and charge you the 20 percent on that money.

That is wrong. And it is wrong when you pick up a telephone and you say, listen, I just got my bill, but it is 3 days before it is due. Can I pay you over the phone? And they tell you yes, for 15 or 20 bucks.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. GUTIERREZ. I yield myself 30 additional seconds.

I will end with this. How many people in America haven't picked up the phone to complain to a credit card company, and if you get a little testy with them, which I have because they angered me, and I say, can you please explain this to me, they go click.

Well, you know what we are doing today? We are going "click" right back to the credit card companies, except this time we are hanging up the phone on abusive practices here in America against the American consumer.

Mr. Chairman, I rise in strong support of H.R. 627, the "Credit Cardholders' Bill of Rights Act of 2009."

With more than 640 million credit cards in circulation that account for an estimated \$1.5

trillion of consumer spending, the U.S. economy has clearly gone plastic. But America's love affair with credit cards comes with a hefty price. The average credit card debt among American households has more than doubled over the past decade. Today, the average family owes roughly \$8,000 on their credit cards. This debt has helped generate record profits for the credit card industry.

Unfortunately, a growing share of the industry's revenues come from deceptive tactics, such as universal default terms spelled out in the fine print of cardholder agreements—the terms and conditions of which can be changed at any time for any reason with 15 days' notice or less.

According to a recent Pew study, 100 percent of the 400 types of credit cards they reviewed contained in its terms at least one of the practices that have been found by the Federal Reserve to be unfair and deceptive. And 93 percent of the cards studied by Pew allowed for any-time, any-reason repricing, allowing an issuer to hike up the APR on a consumer's credit card even if they've never missed a payment.

In 2008, the House passed the Credit Cardholders' Bill of Rights by a vote of 312–112 but it unfortunately was not signed into law. This year, once again under the leadership of Representative CAROLYN MALONEY, we have taken up H.R. 627, which appropriately carries the name of its predecessor, and moved it swiftly to the floor for final passage.

We must pass this legislation once again. Today, Americans are suffering from rising unemployment rates, dramatically falling household wealth and declining real wages, all of which make it harder for consumers to pay off credit card debt. In fact, in 2008, we saw the percentage of accounts 30 days past due rise to an all-time high of 5.6 percent. On average, American families owe 24 percent of their income in credit card debt.

These are daunting figures in an unstable time, but Congress can and must do something about it, by making sure that unfair credit card practices and fees do not deter consumers from paying down their debt. The Federal Reserve has mandated new regulations that mirror many of the protections included in H.R. 627. I applaud the Board for its work on the UDAP and Regulation Z changes, but I believe that this Congress should codify these important consumer protections to send the message to the industry and consumers that Congress is serious about standing up for consumer rights.

H.R. 627 would level the playing field between card issuers and cardholders by applying commonsense regulations that would ban retroactive interest rate hikes on existing balances, double-cycle billing, and due-date gimmicks. It would also increase the advance notice of impending rate hikes, giving cardholders the information and rights they need to make decisions about their financial lives.

I urge my colleagues to support this important consumer protection bill.

Mr. BACHUS. Mr. Chairman, at this time I yield 4 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I was listening very carefully to my colleagues on the other side of the aisle, and, again, I want to say I believe every person in this Chamber would agree that there are misleading and de-

ceptive practices with credit card companies. I have congratulated the gentlelady from New York for that title in her bill that would provide effective disclosure. Consumers need it, they demand it, and they are not receiving it.

But in taking one step forward, her legislation, unfortunately, probably takes 10 steps backwards. And ultimately what is unfair, what is unfair, Mr. Chairman, is in a time of a credit contraction to reach into people's wallets and take their credit cards away. Ultimately, that is what this legislation will do. Regardless of its noble intentions, that is what the legislation will do.

It is not just theory I have. It is history. We have seen similar legislation enacted in Great Britain, and that was the impact.

Now, I have heard in the context of the debate on the budget colleague after colleague on the Democratic side of the aisle decry budget deficits. "The budget deficit is horrible." Well, it was \$160 billion when they took it over, and now it is going to \$1.8 trillion. They increased it 10-fold.

Now I hear Democratic colleague after Democratic colleague lament the credit contraction. Yes, there is a credit contraction. Why do you want to worsen it? Why do you want to exacerbate it? And when you engage in forms of price controls, and you may come up with all kinds of different names for it, but if you are going to restrict fees for people who pay their bills late—they need to be disclosed, people need an opportunity to pay off their bills—but ultimately in a free market, people ought to have consumer choice and they ought to be able even with a checkered credit past to get credit.

People are counting on these credit cards. Risk-based pricing. You are taking tools away from those who use it and you are leading to two consequences. Either, number one, half of America is paying their bill on time and you are going to force them through this legislation to bail out the portion of America that doesn't; and for those who are struggling, you are going to deny them credit card options.

People need these credit cards for their small business. They need it for personal items. I hear from the people in my district. I hear from the Vehon family of Rowlett, who said, "We were laid off from our jobs at the same time," the gentleman talking about himself and his wife. "We moved into our first home together in July of that year. Needless to say, the layoff was quite a shock, and without access to our credit cards at the time, frankly, I don't know what we would have done." And yet the legislation before us could take away the credit cards of the Vehon family of Rowlett.

I heard from the Howard family of Canton. "My wife and I use our credit cards, at times, to pay for medical-related bills. My wife has a heart condition, which between her medical bills and mine we spend out-of-pocket

\$18,000. And yes we had to put some of that cost on credit cards.”

I heard from the Juarez family in Mesquite. “I oppose this legislation. I have utilized my credit cards to pay for some costly oral surgeries. I don’t want to get penalized by this legislation for making my payments on time.”

Let’s not penalize the people that are doing it right. Let’s not penalize the people who desperately need credit in a credit contraction. We need disclosure. We need adequate time to pay off bills. But don’t take away credit in a credit contraction.

Mr. GUTIERREZ. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. ELLISON).

Mr. ELLISON. Mr. Chairman, don’t believe that unless this Congress allows some credit card companies to abuse consumers, that no one will have credit. It is just not true. Don’t believe that if we say no to double cycle billing, no to switching due dates around at random and arbitrary times, no to giving credit cards to minors, if we say no to these kind of practices, it will not drive out credit in America. It is nothing but fear-based stuff that will allow credit card companies, that have made record profits, to continue to take advantage of American consumers.

The Democrats, and many Republicans as well, are joining together to say we are on the side of the American consumer. Vote no to this bill at your own peril. The fact is that with the confusing disclosures that the gentleman from Texas has accurately said are present, this bill says those things are wrong. We ask everyone to join with us to say the provisions that allow these confusing disclosures should be stopped. We ask everyone in this Chamber to say no to this.

The fact is, Mr. Chairman, if we don’t do something to protect the American consumer, we are abdicating our responsibility as stewards of this sacred trust of being a Member of Congress. This is the time to do something for the American consumer.

Mr. GUTIERREZ. I yield 2 additional minutes to the gentlelady from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for yielding and would like to respond to some of the statements that my good friend on the other side of the aisle made.

He mentioned the Great Britain example, but in the Great Britain example there were fee caps and interest rate caps. The Credit Card Bill of Rights does not have any caps on fees or interest rates. It merely gives information to consumers to better manage their credit and make decisions of how they would better manage their credit.

He gave the example that he did not want interest going up on consumers who are paying their cards on time and not going over the limit. Precisely what this bill does is protect those consumers from rate increases, any time, any reason, even when they have done

everything right. It is totally, totally unfair.

And there is absolutely no penalty in this bill for anyone doing the right thing. If anything, it protects them from unfair and deceptive practices that could hinder and raise their interest rates.

He mentioned that he would like more choice, but that is basically one of the main goals of the bill. This bill is not a bill that takes away consumer choice or infringes on anyone’s rights. It simply says it is not right to be deceptive, to be unfair or to engage in anti-competitive practices.

I would caution my friends on the other side of the aisle that voting against this bill is a rare opportunity to vote against the Federal Reserve, the body with the responsibility of safety and soundness in our financial institutions. They have come out in support of this bill with a rule that mirrors it to a great degree. The major points of this bill are encompassed in the Federal rule.

This is a bill that protects our consumers and has been endorsed by many editorial boards and consumer groups across the country.

Mr. BACHUS. Mr. Chairman, I yield myself the balance of my time.

Let me be very clear again. This bill, we requested the Congressional Research Service to analyze the bill, and they came out, and I am going to introduce this, with about 18 things that this bill does. Fifteen of those things, including probably what we spent 90 percent of our time on here today, the Federal Reserve required in their announcement. There are four provisions in this bill that are not in the Federal Reserve bill.

Let me tell you, raising interest rates, we are all against that. The Fed says you can’t do it without good reason, and it strictly defines the reason. There is something you hadn’t mentioned that the Fed does. It says if you have got a higher interest rate on certain payments and a lower interest rate on another, you have to either direct the payment at the higher interest rate, and your bill does too, or prorate it, which is fair.

Look, the American people are upset. You are absolutely right. Credit card companies haven’t played by the rules. A lot of them have. Some of them haven’t. But that is really not a difference of opinion, because we have the Federal Reserve saying you can’t do it.

Now, here are the things that the Federal Reserve doesn’t do that your bill does. Your bill says if the outstanding balance on the credit card consists only of accrued interest, and it could be several hundred dollars, then no fee may be imposed in connection with such balance, and the failure to make timely repayments on the balance shall not constitute a default.

Now, I don’t understand that. Somebody owes \$600 or \$700, they are not paying on the bill, but it is not considered a default? Well, what is it? What is it?

□ 1815

Here’s another one. And I think there is a real difference of opinion about this because we have gone round and round on this one. It prohibits a creditor from informing a credit bureau that they’ve opened a credit card with a, say, \$10,000 limit on a customer until such time as the customer uses that credit card, makes a charge against it.

Now, let me tell you what I have a real problem with. What if somebody goes out and, hey, we’ve seen outrageous schemes perpetrated on the American people by some real crafty individuals, as well as firms? What if you went out and you got 10 credit cards for \$10,000 apiece, you didn’t draw against any of them, you kept getting them, and I’m a community bank and I give you a 5 or \$10,000 line of credit, and I have no idea that you’ve opened up 10 just like it? You borrow the money, and you walk away with \$100,000. Now, that can happen. That’s why the Fed looked at this and said, whoa, no way.

Now, here’s the third one. Look, I’ve got five children, and I am just like the gentleman from Chicago. These credit card offers amaze me. But honest difference of opinion. What you say here is if you’re under 18 years old, unless you’ve been emancipated by the State you’re a resident of, you can’t get a credit card. I don’t think that’s the right way to do it. I don’t think that’s right, because, let me tell you, there are 16- and 17-year-olds in this country that they’ve been cut off by their parents. They’ve been abused by their parents. They’re out there working, and they’re going to need this.

So those are some differences of opinions we have. But I will tell you this: Most of what you do, and I commend you, what you have been proposing for years, and some of us on our side, is that the Federal Reserve is addressed.

But as I said to start with, I never imply that we don’t have sincere differences on some of these points.

CONGRESSIONAL RESEARCH SERVICE,  
Washington, DC, March 26, 2009.

#### MEMORANDUM

To: House Financial Services Committee  
From: Mark Jickling, Specialist in Financial Economics, 7-7784.

Subject: Comparison of H.R. 627 and the Federal Reserve’s Credit Card Regulations.

This memorandum provides the comparison you requested between H.R. 627, the Credit Cardholders’ Bill of Rights Act of 2009, and the credit card regulations adopted by the Federal Reserve in December 2008. The table below sets out the provisions of the bill and the comparable provisions in the regulations.

The Fed’s credit card regulations involve amendments to its Regulation AA (Unfair Acts or Practices) and Regulation Z (Truth in Lending). The Fed also issued rules related to overdrafts on deposit accounts and returned checks by amending Regulation DD (Truth in Savings). The latter set of rules do not apply specifically to credit cards and are not included in the table. The texts of the final rules, as printed in the Federal Register, are online: [www.federalreserve.gov/newsevents/press/bcreg/20081218a.htm]



TABLE I.—COMPARISON OF H.R. 627 AND THE FEDERAL RESERVE'S DECEMBER 2008 CREDIT CARD RULES

Issue	H.R. 627—as introduced	Federal Reserve regulations
Universal Default Clauses .....	Amends the Truth in Lending Act (TILA) to prohibit creditors from raising interest rates on an existing balance of a credit card account except for specified causes (see below). Also prohibits imposition of fees in lieu of a rate increase on an existing balance. (Sec. 2(a)).	See below ("Increasing Rates on Outstanding Balances")
Raising Interest Rates .....	Interest rates on existing credit card balances may not be increased, unless the increase is solely due to (1) a change in a published index not under the creditor's control, (2) the expiration or loss of a promotional rate; or (3) the consumer's minimum payment being at least 30 days overdue. In the case of expiration of a promotional rate, the new rate may not exceed the rate that would have applied under the terms of the agreement after expiration of the promotional rate. (Sec. 2(b)).	Requires banks, at the time an account is opened, to disclose all interest rates that will apply to the account. Banks may not increase those rates, except under certain conditions: (1) if a promotional rate expires, the rate may rise to a higher, previously-disclosed level; (2) rates may rise in a variable rate account if the rate is linked to an index; (3) after one year, banks may raise rates for new balances after giving 45 days advance notice; and (4) rates may increase if a minimum payment is received more than 30 days after the due date. (Reg. AA)
Repayment of Existing Balances .....	If a creditor raises rates, but the higher rate does not apply to an existing balance, the creditor must offer a 5-year amortization period for repayment of the existing balance, and may not increase the percentage of the existing balance included in the minimum payment by more than double. (Sec. 2(a)).	When different interest rates apply to different balances in a credit card account, banks must allocate payments in excess of the monthly minimum to the balance with the highest rate, or divide the excess payment among all balances on a pro rata basis. (Reg. AA)
Advance Notice of Credit Card Rate Increases .....	Requires creditors to provide written notice at least 45 days before any rate increase takes effect. The notice must describe in a complete and conspicuous manner the change in the rate and the extent to which such increase will apply to an existing balance. (Sec. 2(c)).	Consumers must be given written notice of an interest rate increase at least 45 days before the higher rate takes effect. This includes rate increases stemming from default, delinquency, or a penalty. Change-in-terms or penalty rate notices must include a summary table setting out the key terms being changed. (Reg. Z)
Double-Cycle Billing .....	Prohibits double-cycle billing, or finance charges on balances on a credit card account that are based on days in billing cycles preceding the most recent cycle. Exceptions are provided for deferred interest that may have accrued over several billing cycles, and for adjustment of finance charges following resolution of a billing dispute. (Sec. 3(a)).	Prohibits banks from imposing interest charges using the "two-cycle" billing method. (Interest charges may not be calculated using the account balance for days in the previous billing cycle.) Exceptions are provided for deferred interest that may have accrued over several billing cycles, and for adjustment of finance charges following resolution of a billing dispute. (Reg. AA)
Account Balances Attributable Only to Accrued Interest .....	If the outstanding balance on a credit card account consists only of accrued interest to previously-repaid credit, no fee may be imposed in connection with such a balance, and failure to make timely repayments on such a balance shall not constitute a default on the account. (Sec. 3(b)).	No comparable provision.
Periodic Account Statement Disclosures .....	Each periodic credit card account statement shall contain a telephone number, Internet address, and web site at which the consumer may request the payoff balance on the account. (Sec. 3(c)).	Mandates new formats to clarify required disclosures, for example, by grouping fees and charges together. Both monthly and year-to-date totals for fees and interest charges are required. The effect of making only the minimum payment must also be disclosed. (Reg. Z)
Right to Cancel Account Before First Notice of Open Account Provided to Credit Bureau.	Prohibits creditors from providing information about a credit card account to a consumer reporting agency (credit bureau) until the consumer has used or activated the card. Permits a creditor to furnish information about an application for a credit card account or any inquiry about such account to a consumer reporting agency. (Sec. 3(d)).	No comparable provision.
Use of Certain Terms Describing Interest Rates .....	Specifies the way certain terms may be used. "Fixed rate" may only refer to a rate that may not change for any reason over a specified time period. The term "prime rate" must not be used to describe a rate other than the rate published in Federal Reserve statistical releases. (Sec. 3(e)).	Advertising may use the term "fixed rate" only if the rate cannot be increased for any reason during a specified time period. If no time period is specified, the rate may not increase for any reason as long as the account is open. (Reg. Z)
Due Dates and Timely Payments .....	Payments received by 5 p.m. (local time) on the due date must be considered timely; electronic payments received by 5 p.m. must be credited to the consumer's account the same day; and evidence that a payment was mailed 7 days before the due date creates a presumption of timely payment. (Sec. 3(e)).	Banks may not treat a payment as late unless the consumer has been given a reasonable amount of time to make that payment. The "reasonable" standard will be met if banks mail statements at least 21 days before payment is due. (Reg. AA) Mailed payments received by 5 p.m. shall be considered timely. If payments are not accepted on the due date (if it falls on a weekend or holiday), payment received the next business day must be considered timely. (Reg. Z)
Pro Rata Payment Allocations .....	If the balance of a credit card account is charged 2 or more different interest rates (e.g., separate rates for cash advances and purchases), the creditor may not allocate more than a pro rata share of a consumer's payment to the part of the outstanding balance carrying the lowest interest rate. In the case of an outstanding balance subject to a promotional rate, other balances must be paid in full before payment (in excess of the minimum payment) is allocated to that balance. In addition, a creditor may allocate the entire amount paid to a balance on which interest has been deferred for the past 2 billing cycles. (Sec. 3(f)).	When different interest rates apply to different balances in a credit card account, banks must allocate payments in excess of the monthly minimum to the balance with the highest rate, or divide the excess payment among all balances on a pro rata basis. (Reg. AA)
Prohibition on Restricted Grace Periods .....	If a creditor offers cardholders a grace period within which to pay in full and not incur finance charges, that grace period must be available to cardholders who receive a promotional rate or deferred interest plan. (Sec. 3(f)).	No comparable provision.
Timely Provision of Periodic Account Statements .....	Creditors must send consumers periodic account statements not less than 25 calendar days before the due date. (Under TILA, the current standard is 14 days). (Sec. 3(g)).	Banks may not treat a payment as late unless the consumer has been given a reasonable amount of time to make that payment. The "reasonable" standard will be met if banks mail statements at least 21 days before payment is due. (Reg. AA)
Consumer Choice Regarding Over-the-limit Transactions, and Limits on Related Fees.	If a credit card plan has a credit limit, and fees are charged for exceeding that limit, consumers would be able to prevent the creditor from completing any transaction that would exceed the limit. (Federal Reserve would issue regulations to provide for certain de minimis exceptions.) Consumers must receive annual notification of their right to opt-out of such fee-incurring transactions. Over-the-limit fees may be imposed only once over the two billing cycles following the transaction that exceeded the credit limit. An over-the-limit fee due to a hold may not be imposed unless the actual transaction for which the hold was placed would have resulted in the consumer exceeding the credit limit. (Sec. 4).	No comparable provisions. (A provision regarding holds on accounts that cause an account to go over-the-limit was part of the proposed regulations, but was not adopted in the final rules. See: Federal Register, Jan. 29, 2009, p. 5505.)
Information Collection Regarding Credit Card Lending .....	Directs the Federal Reserve to collect semiannual data on the types of transactions for which different rates are charged, the various types of fees, the number of cardholders who pay fees, finance charges, or interest, and other matters. The Fed shall report annually to Congress on the amount of credit card lenders' income derived from: interest paid at above and below 25%; fees from cardholders and merchants; and other material sources of income. (Sec. 5).	No comparable provision.
Subprime or "Fee Harvester" Cards .....	For cards whose annual fees exceed 25% of the credit limit, no payment of any fees (other than late fees or over-the-limit fees) may be made from the credit made available by the card. (Sec. 6).	Banks are prohibited from providing financing for security deposits and fees (such as account-opening or membership fees) if charges during the first 12 months would exceed 50% of the initial credit limit. Such fees and deposits charged at the time the account is opened may not exceed 25% of the credit limit. Any additional fees (up to 50%) must be spread over at least 5 billing periods. (Reg. AA)
Underage Consumers .....	Prohibits the issuing of credit cards to consumers less than 18 years old, except to consumers who are emancipated under applicable state law. (Sec. 7).	No comparable provision.
Applications and Solicitations .....	No provision.	Modifies required disclosures as to format and content. For example, key terms must be more clearly displayed, and new disclosures are required about penalty rates, grace periods, and variable rates. (Reg. Z)
Effective Date .....	3 months after enactment. (Sec. 8)	July 1, 2010

Mr. GUTIERREZ. I yield myself the balance of my time.

Well, let me first of all say, I look forward to continuing working with the ranking member of the full committee, SPENCER BACHUS. We have, indeed a great, I think, friendship. And we have a difference of opinion. That's what it is. And in America you can do that. That's part of what makes this the best Nation in the world.

And I look forward to continuing our discussion with Mr. HENSARLING. We may not agree, but we will agree not to be disagreeable or attack each other

personally or question our motives about what we do and why we do it because, for me, the bill does not equate to price controls. And I think a lot of America, listening to my friends on the other side of the aisle, think there's price controls here. There are none. There is no limit in this bill on the interest rate that you can charge. None whatsoever. Free market.

Rather, what the bill does is it brings transparency. It brings openness to the credit card marketplace. What could be better than to shine daylight on any

product? Because then the consumers know what they're getting and what they're not getting and they can say, no, I don't want that, or, yes, I do want that.

Transparency promotes competitiveness in the marketplace, which will eventually bring prices down. If you know what the price of something is at Store X and Y and Z, you're going to go where you can get the best deal because that's what Americans do. That's what this bill really does.

What this bill does is it tells the consumers and the credit card issuers,

honor your contract. Here's the contract. You told me it was 10, you told me it was 15, you told me it was 20 percent. You can't change it.

Under existing law, issuers can change the contract terms in the middle of the game. And what do they leave consumers with? As we know, we have a constricting credit, with nothing but to pay the higher interest rate.

You know, I want to tell the American people that right now, credit card companies can issue cards to 14-, 15-, 16-year-olds that are not emancipated. Now, who's going to pay those credit card bills? Mommy, Daddy, that's who's going to pay them. We all know that. Who's going to leave their kids out there? No one is. All good parents are going to say, well, that's my child, my son. I'm responsible for my daughter. I'm responsible. And the credit card companies know it. They know it. I don't know this to be a fact, but I'm sure they're checking into just what your credit ability is, and they say, well, Daddy can pay. Mother can pay. Let's give the child.

And listen, I want to make one thing clear. Even though the bill says 18, you know, emancipation, come on. In America, what 18-year-old is emancipated? You're not emancipated. They're 19, 20, 21, 22, and nobody throws their kids out of the house. Everybody keeps them and cherishes them and nurtures them and continues. Credit card companies know that, too, when they're issuing credit cards.

College students, you're paying tuition. You're paying for their room and board. You're paying for their health care. You're paying for their clothes, and then they send them a credit card to undermine your ability to give your child a college education.

And listen, everywhere you go in America, you want to buy clothes? Take a credit card. You want to fix your car? Got a credit card for you. Want to go buy a refrigerator? Take it on a credit card. Everybody offers you. So what we have is an economy that's on credit card basis. So all we're saying is, hey, since this has been promoted so much, let's make sure that we do this.

And listen, I remember when I didn't make \$174,000 as a Member of Congress. I remember when I lived paycheck to paycheck. I remember when the credit card companies would increase the interest rate or tell me, Mr. GUTIERREZ, through no fault of your own, we're not going to extend you any more credit. Pay down your bill at this credit interest rate higher than the one you took it out. I remember. Maybe we should all go back to remembering when things weren't so rosy in our own personal lives in terms of being Members of Congress and put ourselves in the position of people who live paycheck to paycheck. If we do that tomorrow, I think what we're going to do is we're going to stand on the side of consumers.

As Mr. BACHUS says, consumers are angry. The American public is frus-

trated. They're outraged by what credit card companies are doing.

Ms. LINDA T. SANCHEZ of California. Mr. Chair, I rise in strong support of H.R. 627, the Credit Cardholders Bill of Rights Act.

I'd like to thank Congresswoman MALONEY for her work on this issue. She has been a longtime champion of credit card reform and I wholeheartedly support her efforts.

The Credit Cardholders Bill of Rights Act could not be more timely. The constant stress of mounting bills in the face of skyrocketing unemployment and a foreclosure epidemic has American families caught between a rock and a bigger rock.

More and more working families have been forced to rely on credit cards to cover basic living expenses. The least we can do is make sure the credit card issuers are fair, open, and honest about rates and terms.

For decades, credit card companies have been allowed to operate under special rules that, under any other circumstances, would be considered outlandish.

Take for instance the credit card industry's ability to raise an unsuspecting cardholder's interest rate because he was one day late paying a different card belonging to a different company. Where else can creditors suddenly change the rules in the middle of a game?

It's like an umpire deciding that a batter hit by a pitch can take two bases instead of one in the middle of a baseball game. Consumers are playing an unfair ball game and there's no way to win.

Cardholders continue to pay millions of dollars in hidden charges, outrageous late fees, and unpredictable interest rates.

Despite the fact that most consumers make monthly payments that are more than the minimum required, cardholders cannot seem to make a dent on the average credit card debt of \$8,600.

There's a term for such one-sided contracts: UNCONSCIONABLE. And that's exactly what these credit card agreements are.

In the midst of the worst economic crisis since the Great Depression, I am certain that the passage of the Credit Cardholders Bill of Rights Act is simply the "right thing to do."

Provisions in the bill will level the playing field for consumers by barring credit card companies from raising interest rates without proper and timely notification.

These much-needed changes are long overdue and will help struggling debtors from sinking deeper in a financial hole.

I urge my colleagues, on both sides of the aisle, to join in fixing the inequities in the credit card industry by supporting this vital legislation.

Mr. GUTIERREZ. I yield back the balance of my time.

The CHAIR. All time for general debate has expired.

Pursuant to the previous order of the House, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Ms. MARKEY of Colorado) having assumed the chair, Mr. CUELLAR, Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end

consumer credit plan, and for other purposes, had come to no resolution thereon.

#### REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 627, CREDIT CARDHOLDERS' BILL OF RIGHTS ACT OF 2009

Mr. PERLMUTTER, from the Committee on Rules, submitted a privileged report (Rept. No. 111-92) on the resolution (H. Res. 379) providing for further consideration of the bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the Concurrent Resolution (S. Con. Res. 13) entitled "Concurrent Resolution setting forth the congressional budget for the United States Government for fiscal year 2010, revising the appropriate budgetary levels for fiscal year 2009, and setting forth the appropriate budgetary levels for fiscal years 2011 through 2014."

#### APPOINTMENT AS MEMBER TO ADVISORY COMMITTEE ON THE RECORDS OF CONGRESS

The SPEAKER pro tempore. Pursuant to 44 U.S.C. 2702, and the order of the House of January 6, 2009, the Chair announces the Speaker's reappointment of the following member on the part of the House to the Advisory Committee on the Records of Congress:

Mr. Joseph Cooper, Baltimore, Maryland

#### COMMUNICATION FROM THE REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN A. BOEHNER, Republican Leader:

HOUSE OF REPRESENTATIVES,  
Washington, DC, March 3, 2009.

Hon. NANCY PELOSI,  
Speaker, U.S. Capitol, Washington, DC.

DEAR SPEAKER PELOSI: Pursuant to 44 U.S.C. 2702, I am pleased to re-appoint Mr. Jeffrey W. Thomas of Ohio to the Advisory Committee on the Records of Congress. Mr. Thomas has expressed interest in serving in this capacity and I am pleased to fulfill his request.

Sincerely,

JOHN BOEHNER,  
Republican Leader.